

## REMARKS

### 35 U.S.C. § 102

The Examiner rejects claims 1-5, 7-10 and 12 as being anticipated by U.S. Patent 6,415,262 to Walker.

"Anticipation requires the disclosure in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)). As set forth below, Walker fails to disclose at least one element of the rejected claims.

First, Walker fails to disclose the payment and acceptance of an additional sum beyond the payment for the goods and services. The additional sum claimed in this case is not a deposit useable for renewing a subscription or paying for goods and/or services but rather a payment for a potential future discount. That is, the additional sum causes the customer to return to the business in order to retrieve the additional sum and to receive the corresponding discount for goods and/or services purchased during the second visit or subsequent visits. Consequently, Walker does not disclose or suggest the payment of the additional sum of money. The deposit in Walker is returned only if the participant successfully fulfills the subscription by purchasing discounted goods and/or services pursuant to the subscription. (Fig. 18; column 19, lines 50-60). In the instant case, the customer is not required to purchase anything for a return of the additional sum but rather simply pays the additional sum and returns to the business. If the customer does these two things, he or she receives the discount. If the customer does not pay the additional sum, he or she is not eligible for the discount and if the customer pays the additional sum but fails to return he or she forfeits the additional sum.

Consequently, claim 1 has been amended to require payment of the additional sum in order to be eligible for the discount (said additional sum required for a subsequently applied discount). In addition, claim 1 has been amended to limit the discount to solely payment of the additional sum and a return visit (based solely on payment of the additional sum during the first visit and a return visit).

Nothing in Walker requires, as claimed, the customer to return to a business.

Contrarily, Walker only requires a customer to purchase subscription products at subscription prices. Such a method may help a product manufacturer but it does not help increase return customer visits and loyalty.

Based on the foregoing, independent claim 1 is allowable. Moreover, since they include each and every element of independent claim 1, dependent claims 2-5, 7-10 and 12 are allowable as well.

### **35 U.S.C. §103(a)**

The Examiner rejects claims 6 and 11 as obvious in view of U.S. Patent 6,415,262 to Walker.

The arguments with respect to the section 102 rejection are incorporated herein by this reference. As claim 1 recites elements not disclosed or suggested in Walker, the dependent claims 6 and 11, which are more narrow than claim 1, cannot be rendered obvious.

More specifically, with respect to claim 6, Walker does not disclose an additional sum at all but rather a deposit for payment of subscription products and subscription prices. Accordingly, a range of deposits is not necessary for the invention of Walker. The range of additional sums in the instant application is such that customers of some locations (e.g., fast food restaurant) may be more likely to pay a smaller additional sum while customers of other locations may be willing to pay a larger additional sum (e.g., sit down restaurant).

With respect to claim 11, there is no need for decreasing the deposit amount in Walker for subsequent participations by the customer. On the other hand, decreasing the additional sums in the instant application for each subsequent customer visit encourages even further customer loyalty by providing the customer with, not only a discount on each subsequent customer visit, but also a decrease in the additional sum for the subsequent visit.

Based on the foregoing, claims 6 and 11 are allowable.

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Applicant believes the application is now in condition for issue. Therefore, favorable consideration of claims 1 – 12 is thought to be in order and is urgently solicited.

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Respectfully submitted,

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